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2 UNITED STATES BANKRUPTCY COURT
3 SOUTHERN DISTRICT OF NEW YORK

5 | In the Matters of:

6 FLETCHER INTERNATIONAL, LTD., Case No. 12-12796-reg

7 | Debtor.

9 FLETCHER INTERNATIONAL, LTD.,

10 Plaintiff,

11 -against- Adv. Proc. No. 14-02028-reg

12 PFEC LLC, d/b/a AFE CONSULTING,

Defendant.

16 United States Bankruptcy Court

17 | One Bowling Green

18 New York, New York

19

20 | August 7, 2014

21 | 9:53 AM

23 | BEFORE:

24 HON. ROBERT E. GERBER

25 U.S. BANKRUPTCY JUDGE

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2 Pre-Trial Conference
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20 Transcribed by: David Rutt
21 eScribers, LLC
22 700 West 192nd Street, Suite #607
23 New York, NY 10040
24 (973)406-2250
25 operations@escribers.net

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2 A P P E A R A N C E S:

3 LUSKIN, STERN & EISLER LLP

4 Attorneys for Plan Administrator, and Plaintiff Fletcher

5 International, Ltd.

6 11 Times Square

7 New York, NY 10036

8

9 BY: STEPHAN HORNUNG, ESQ.

10

11

12 REED SMITH LLP

13 Attorneys for Defendant PFEC LLC, d/b/a AFE Consulting

14 599 Lexington Avenue

15 22nd Floor

16 New York, NY 10022

17

18 BY: CHRISTOPHER A. LYNCH, ESQ.

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1 P R O C E E D I N G S

2 THE COURT: Fletcher.

3 Folks, I don't know everybody, so may I get
4 appearances, please?

5 MR. HORNUNG: Sure. Stephan Hornung for Luskin, Stern
6 & Eisler, on behalf of the plan administrator and the
7 plaintiff, Fletcher International.

8 THE COURT: Thank you, Mr. Hornung.

9 MR. LYNCH: Good morning, Your Honor. Christopher
10 Lynch of Reed Smith, for Defendant PFEC LLC, doing business as
11 AFE Consulting.

12 THE COURT: You're a little far from the mic. Was
13 that Lynch?

14 MR. LYNCH: Yes, it is, Your Honor. It's Christopher
15 Lynch.

16 THE COURT: Okay, and you're from Reed Smith?

17 MR. LYNCH: That is correct, Your Honor.

18 THE COURT: The New York office or the Pittsburgh
19 office?

20 MR. LYNCH: New York, sir.

21 THE COURT: Okay. Gentleman, I'm drawing a blank on
22 this adversary. I certainly have other Fletcher-related
23 litigation on my mind, but not this.

24 Mr. Hornung, can you help me on this one, please?

25 MR. HORNUNG: Sure. Your Honor, this is our first

1 time on, on this adversary, so I'm not surprised that you
2 haven't spent much attention on this. We just received the
3 defendant's answer earlier this week.

4 By way of background, it's a fairly straightforward
5 preference action. The defendant served as an expert
6 consultant on litigation pre-petition; there were some bills
7 that were paid, from our view, quite late. And at the same
8 time, the defendant also has some unpaid bills. They filed a
9 proof of claim. So the adversary proceeding is just the
10 preference action and also an objection to their claim, to the
11 extent that --

12 THE COURT: 502(d) --

13 MR. HORNUNG: That's correct, Your Honor.

14 THE COURT: Um-hum.

15 MR. HORNUNG: So we have reviewed Your Honor's form
16 scheduling order and we discussed it out in the hallway. What
17 we'd like to do, if it's all right with Your Honor, is submit
18 it when I return back to my office. We've stylized it as a
19 stipulation, but we intended to use the ordinary deadlines that
20 are in Your Honor's form order.

21 THE COURT: Um-hum. Mr. Lynch, are you on the same
22 page on that?

23 MR. LYNCH: Your Honor, yes. Everything counsel
24 represented is correct.

25 THE COURT: Okay. Gentlemen, I got two pretty good

1 firms here. What are the chances of settling this?

2 MR. HORNUNG: I do think that settlement is a likely
3 possibility. And we've discussed exchanging offers as quickly
4 as possible so that hopefully we can resolve this without the
5 need for going through full-blown discovery and further court
6 intervention.

7 THE COURT: I'd like to get recommendations from you
8 and Mr. Lynch as to whether the discovery in whole or in part
9 should await your dialogue. Sometimes in preference actions,
10 trading documents is helpful without taking depositions. Do
11 you think that would make sense here?

12 MR. HORNUNG: I do think that that would certainly be
13 warranted here. I do think that the document discovery should
14 be fairly limited; if necessary, we could complete that fairly
15 quickly. And then if depositions are necessary, we can revisit
16 that issue.

17 THE COURT: Mr. Lynch, lift up the mic before you
18 Oprah-Winfrey-style.

19 What do you think of that idea?

20 MR. LYNCH: Your Honor, I think that's fine. Again, I
21 concur that there's very limited live testimony that'd be
22 necessary in a matter of this sort. This is mostly on the
23 papers and the documents, and that could be done in short order
24 should we go that way.

25 THE COURT: Okay. Then here's what I'd like you guys

1 to do: I'd like you to go on parallel tracks, with document
2 production to precede everything. And then see if you can
3 settle it to your mutual satisfaction. And I'd also like you
4 to prepare up a real simple scheduling order to deal with your
5 pre-trial needs.

6 Am I correct that sixty days of actual discovery time
7 would be sufficient, or would you prefer ninety?

8 MR. HORNUNG: Your Honor, I think we discussed out in
9 the hallway that something longer than sixty might be
10 necessary, especially this being August and vacation schedules
11 and things like that.

12 THE COURT: All right, I'm not going to make anybody
13 lose their August vacation. Make the stip or consent order say
14 ninety-day discovery cutoff, extendable for cause but only for
15 cause.

16 MR. HORNUNG: Yes, Your Honor, we will.

17 THE COURT: Okay. Anything else, either side?

18 MR. LYNCH: No; thank you, Your Honor.

19 THE COURT: Okay, thank you, gentlemen.

20 MR. HORNUNG: Thank you.

21 (Whereupon these proceedings were concluded at 9:57 AM)

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2 C E R T I F I C A T I O N

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4 I, David Rutt, certify that the foregoing transcript is a true
5 and accurate record of the proceedings.

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10 DAVID RUTT

11 AAERT Certified Electronic Transcriber CET**D 635

12

13 eScribers

14 700 West 192nd Street, Suite #607

15 New York, NY 10040

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17 Date: August 8, 2014

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